

## REMARKS

In the Office Action mailed from the United States Patent and Trademark Office on June 26, 2006, the Examiner rejected claims 7-8 under 35 U.S.C. 112, second paragraph, rejected claims 61-70 under 35 U.S.C. 101, rejected claims 1-7, 9, 11, 21, 23, 25, 27-29, 31, 33-34, 38-42, 47, 50-53, 56, 58-59 and 61-67 under 35 U.S.C. 102(b) as being anticipated by Parry et al (United States Patent No. 6,077,085, hereinafter "Parry"), rejected claims 8, 10, 12-16, 18, 20, 37, 48, 54, and 55 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Rukavina et al (United States Patent Application Publication No. 2002/0188583, hereinafter "Rukavina"), rejected claims 24, 26, 60, and 70 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Kershaw et al (United States Patent No. 5,565,316, hereinafter "Kershaw"), rejected claims 30 and 49 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Jenkins et al (United States Patent No. 6,293,801, hereinafter "Jenkins"), rejected claims 35-36 and 44-46 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Siefert (United States Patent No. 5,810,605, hereinafter "Siefert"), and rejected claim 43 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of an Official Notice. The Examiner further indicated that claims 17, 19, 22, 32, 57, 68 and 69 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant expresses appreciation for the Examiner's Interview conducted on December 5, 2006, and respectfully submits that while a variety of techniques have been utilized to teach educational concepts, the concept of "continual improvement education system" as disclosed in the present application is not well known in the art. Accordingly, Applicant respectfully provides the following:

Rejection under 35 U.S.C. § 112

In the Office Action, the Examiner rejected claims 7-8 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant respectfully submits that the amendments provided herein overcome the rejections made by the Examiner under 35 U.S.C. 112, second paragraph.

Rejection under 35 U.S.C. § 101

In the Office Action, the Examiner rejected claims 61-70 under 35 U.S.C. 101, indicating that “the claimed invention is directed to non-statutory subject matter.” Applicant respectfully submits that the amendments provided herein overcome the rejections made by the Examiner under 35 U.S.C. §101.

Rejections under 35 U.S.C. 102

In the Office Action, the Examiner rejected claims 1-7, 9, 11, 21, 23, 25, 27-29, 31, 33-34, 38-42, 47, 50-53, 56, 58-59 and 61-67 under 35 U.S.C. 102(b) as being anticipated by Parry. Applicant respectfully submits that the claim set as provided herein is not anticipated by the cited reference.

The standard for a Section 102 rejection is set forth in M.P.E.P 706.02, which provides:

“... for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly. Any feature not directly taught must be inherently present.”

Applicant respectfully submits that the cited reference does not teach every aspect of the amended claim set as provided herein and therefore does not anticipate the claims of the present invention. In particular, independent base claim 1 recites a method for providing a dynamic continual improvement educational environment for users, the method comprising: using a user

interface and a design technique to design an adaptive educational path having a sequence of dynamic educational content for presentation to one or more users, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content, and wherein aspects of the educational content are associated in a relational order, the association capable of being maintained when an aspect of the educational content is moved; providing the adaptive educational path for presentation of the educational content to a user, wherein the presentation comprises an adaptive sequencing of the dynamic educational content for the user, and wherein the adaptive sequencing is ordered based upon a characteristic of the user; and providing the adaptive educational path for iteratively presenting at least a portion of the presentation to the user over an extended period of time to maintain the user's understanding of the educational content.

Independent base claim 50 recites a dynamic continual improvement educational system comprising: a computer system having a development module, an implementation module, an analysis module, and an output device, wherein the output device displays a user interface that enables a user to utilize a design technique for designing an adaptive educational path having a sequence of dynamic educational content for presentation to one or more users, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content; and the dynamic educational content designed for presentation to users, wherein the adaptive educational path includes structural components that are graphically associated in a relational order on the user interface, and wherein at least a portion of the dynamic educational content is adaptively sequenced for the user, the adaptive sequencing being ordered based upon a characteristic of the user and is iteratively presented to the user over an extended period of time to maintain the user's understanding of the educational content.

Independent base claim 58 recites a continual improvement educational process comprising: a development module for designing an adaptive educational path using a user interface and a design technique, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content without causing a designer to encode the instructions; dynamic educational content for presentation to a user, wherein the adaptive educational path comprises a sequence of at least some of the dynamic educational content for presentation to the user, wherein aspects of the educational content are graphically associated in a relational order on the user interface, the association capable of being maintained when an aspect of the educational content is moved; an implementation module associated with the development module for selectively implementing the presentation of the educational content to the user, wherein the presentation is automatically adapted to a characteristic of the user, and for iteratively implementing at least a portion of the presentation to the user over an extended period of time to maintain the user's understanding of the educational content; and an analysis module associated with the implementation module for determining the learning pace of the user and the user's understanding of the educational content.

Independent base claim 61 recites a computer program product for implementing within a computer system a method for providing a dynamic continual improvement educational environment, the computer program product comprising: a computer readable medium encoded with computer executable code utilized to implement the method, the method comprising: receiving input through a design technique to display an adaptive educational path on a user interface, the adaptive educational path having a sequence of dynamic educational content for presentation to a user, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content, and wherein aspects of the educational

content are associated in a relational order, the association capable of being maintained when an aspect of the educational content is moved; adaptively sequencing the presentation of the educational content on an output device to the user, wherein the presentation is automatically adapted to a characteristic of the user; and iteratively implementing at least a portion of the presentation to the user over an extended period of time to maintain the user's understanding of the educational content. Such limitations in the independent base claims are supported by the application as originally filed.

Applicant respectfully submits that the cited reference does not explicitly or impliedly teach every aspect of the invention as claimed in the independent base claims. In addition, the dependent claims place further limitations on otherwise allowable subject matter. Accordingly, Applicant respectfully submits that the cited reference does not teach every aspect of the claims as provided herein and therefore does not anticipate the claims provided herein.

#### Rejections under 35 U.S.C. 103

The Examiner rejected claims 8, 10, 12-16, 18, 20, 37, 48, 54, and 55 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Rukavina, rejected claims 24, 26, 60, and 70 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Kershaw, rejected claims 30 and 49 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Jenkins, rejected claims 35-36 and 44-46 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of Siefert, and rejected claim 43 under 35 U.S.C. 103(a) as being unpatentable over Parry in view of an Official Notice. Applicant respectfully submits that the claim set as provided herein is not made obvious by the cited references.

The standard for a Section 103 rejection is set for in M.P.E.P 706.02(j), which provides:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, **the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). (Emphasis added).

Applicant respectfully submits that the references cited by the Examiner do not teach or suggest the limitations claimed in the present invention. In particular, independent base claim 1 recites a method for providing a dynamic continual improvement educational environment for users, the method comprising: using a user interface and a design technique to design an adaptive educational path having a sequence of dynamic educational content for presentation to one or more users, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content, and wherein aspects of the educational content are associated in a relational order, the association capable of being maintained when an aspect of the educational content is moved; providing the adaptive educational path for presentation of the educational content to a user, wherein the presentation comprises an adaptive sequencing of the dynamic educational content for the user, and wherein the adaptive sequencing is ordered based upon a characteristic of the user; and providing the adaptive educational path for iteratively presenting at least a portion of the presentation to the user over an extended period of time to maintain the user's understanding of the educational content.

Independent base claim 50 recites a dynamic continual improvement educational system comprising: a computer system having a development module, an implementation module, an analysis module, and an output device, wherein the output device displays a user interface that enables a user to utilize a design technique for designing an adaptive educational path having a sequence of dynamic educational content for presentation to one or more users, wherein the

design technique automatically produces computer readable instructions relating to the dynamic educational content; and the dynamic educational content designed for presentation to users, wherein the adaptive educational path includes structural components that are graphically associated in a relational order on the user interface, and wherein at least a portion of the dynamic educational content is adaptively sequenced for the user, the adaptive sequencing being ordered based upon a characteristic of the user and is iteratively presented to the user over an extended period of time to maintain the user's understanding of the educational content.

Independent base claim 58 recites a continual improvement educational process comprising: a development module for designing an adaptive educational path using a user interface and a design technique, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content without causing a designer to encode the instructions; dynamic educational content for presentation to a user, wherein the adaptive educational path comprises a sequence of at least some of the dynamic educational content for presentation to the user, wherein aspects of the educational content are graphically associated in a relational order on the user interface, the association capable of being maintained when an aspect of the educational content is moved; an implementation module associated with the development module for selectively implementing the presentation of the educational content to the user, wherein the presentation is automatically adapted to a characteristic of the user, and for iteratively implementing at least a portion of the presentation to the user over an extended period of time to maintain the user's understanding of the educational content; and an analysis module associated with the implementation module for determining the learning pace of the user and the user's understanding of the educational content.

Independent base claim 61 recites a computer program product for implementing within a computer system a method for providing a dynamic continual improvement educational environment, the computer program product comprising: a computer readable medium encoded with computer executable code utilized to implement the method, the method comprising: receiving input through a design technique to display an adaptive educational path on a user interface, the adaptive educational path having a sequence of dynamic educational content for presentation to a user, wherein the design technique automatically produces computer readable instructions relating to the dynamic educational content, and wherein aspects of the educational content are associated in a relational order, the association capable of being maintained when an aspect of the educational content is moved; adaptively sequencing the presentation of the educational content on an output device to the user, wherein the presentation is automatically adapted to a characteristic of the user; and iteratively implementing at least a portion of the presentation to the user over an extended period of time to maintain the user's understanding of the educational content. Such limitations in the independent base claims are supported by the application as originally filed.

None of the references cited by the Examiner, alone or in combination, teaches or suggests such limitations. And, since the references cited by the Examiner do not teach or suggest each and every limitation of the independent claims, Applicant respectfully submits that the cited references do not make obvious the independent claims as provided herein. And, since the prior art references do not make obvious the independent claims, Applicant respectfully submits that the cited references do not make obvious the corresponding dependent claims.

Thus, Applicant respectfully submits that for at least the reasons provided herein, the claim set as provided herein overcomes all rejections made by the Examiner in the Office Action.

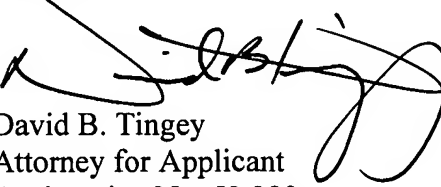


### CONCLUSION

Applicant submits that the amendments made herein do not add new matter and that the claims are now in condition for allowance. Accordingly, Applicant requests favorable reconsideration. If the Examiner has any questions or concerns regarding this communication, the Examiner is invited to call the undersigned.

DATED this 26<sup>th</sup> day of December, 2006.

Respectfully submitted,



David B. Tingey  
Attorney for Applicant  
Registration No. 52,289

KIRTON & McCONKIE  
1800 Eagle Gate Tower  
60 East South Temple  
Salt Lake City, Utah 84111  
Telephone: (801) 323-5986  
Facsimile: (801) 321-4893

DBT:cdl

::ODMA\PCDOCS\DOCS\905210\1